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Ways and Means Committee



House of Representatives
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MEMORANDUM

TO: The Honorable Kenneth A. "Kenny" Bingham
The Honorable J. Roland Smith
The Honorable Brian White
The Honorable Annette D. Young

FROM: Daniel T. Cooper, Chairman

DATE: February 3, 2009

RE: Budget and Finance Subcommittee Meeting

The Budget and Finance Subcommittee will meet on **Thursday, February 5, 2009, at 9:00 AM, in Room 521 of the Blatt Building.** The subcommittee will consider the following legislation:

- 1) House Bill 3378: State Agency Mandatory Furlough Terms
- 2) House Bill 3352: School District Flexibility
- 3) House Bill 3365: Higher Education Efficiency & Administrative Policies Act
- 4) Other items as added

Please mark your calendar and plan to attend.

cc: Sergeant at Arms (Mitch Dorman 2nd Floor State House)
Press Room (3rd Floor State House)
Ann Martin (5th Floor Receptionist Blatt Building)
The Honorable Robert W. Harrell, Jr. (506 Blatt Building)

H. 3378

- The bill is based on feedback from agencies implementing mandatory furloughs this year. The bill was drafted in consultation with the Office of Human Resources input.
- Provides additional terms and conditions to state agencies if the agency has to implement a mandatory furlough.
- The mandatory furlough is still set at 10 days.
- The furlough conditions set forth in Proviso 89.120 are set forth in this bill and the proviso is deleted.
- An agency may furlough within a designated department or program. The furlough must include all classified and unclassified employees in the designated area.
- The bill allows for a furlough program to be implemented based on pay band and pay rate.
- The bill allows for employees who provide direct patient or client services and front line customer service to be exempt from a mandatory furlough.
- If the furlough includes the entire agency, the furlough must include the agency head.
- Constitutional officers are exempt from mandatory furlough.
- The bill provides for the terms of continuing benefits to the employee.
- The bill provides for the agency to allocate the reduction in pay as a result of the furlough over a period of time.
- The bill does not address the Institutions of Higher Education and the State Board for Technical and Comprehensive Education. Section 8-11-193 addresses mandatory furloughs for these entities.

**REPORT OF THE
BUDGET AND FINANCE SUBCOMMITTEE**
(Cooper, Bingham, R. Smith, White, A. Young – Staff Contact: Beverly Smith)

HOUSE BILL 3378

H. 3378 -- Rep. Cooper: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-192 SO AS TO PROVIDE FOR THE TERMS AND CONDITIONS OF MANDATORY STATE AGENCY FURLOUGH PROGRAMS AND TO DELETE THE PROVISIONS OF PARAGRAPH 89.120, PART IB, OF ACT 310 OF 2008, RELATING TO STATE AGENCY FURLOUGHS.

Summary of Bill:

To provide agencies flexibility in meeting the mandatory furlough requirements by expanding the guidelines by which employees may be furloughed.

Introduced: 1/29/2009

Received by Ways and Means: 1/29/2009

Estimated Fiscal Impact:

Pending

Subcommittee Recommendation:

Pending Action



Full Committee Recommendation:

Pending Action



Other Notes/Comments:

South Carolina General Assembly
118th Session, 2009-2010

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Indicates New Matter

H. 3378

STATUS INFORMATION

General Bill

Sponsors: Rep. Cooper

Document Path: I:\council\bills\gjk\20065sd09.docx

Introduced in the House on January 29, 2009

Currently residing in the House Committee on **Ways and Means**

Summary: State agency mandatory furlough terms

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/29/2009	House	Introduced and read first time HJ-5
1/29/2009	House	Referred to Committee on Ways and Means HJ-5

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VERSIONS OF THIS BILL

1/29/2009

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-192 SO AS TO PROVIDE FOR THE TERMS AND CONDITIONS OF MANDATORY STATE AGENCY FURLOUGH PROGRAMS AND TO DELETE THE PROVISIONS OF PARAGRAPH 89.120, PART IB, OF ACT 310 OF 2008, RELATING TO STATE AGENCY FURLONGHS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 11, Title 8 of the 1976 Code is amended by adding:

"Section 8-11-192. In a fiscal year in which the general funds appropriated for a state agency are less than the general funds appropriated for that agency in the prior fiscal year, or whenever the General Assembly or the State Budget and Control Board implements a midyear across-the-board budget reduction, agency heads may institute employee furlough programs of not more than ten working days in the fiscal year in which the deficit is projected to occur.

The furlough must be inclusive of all employees in an agency or within a designated department or program regardless of source of funds or place of work. The furlough must include all classified and unclassified employees in the designated area. However, a furlough program may also be implemented based upon pay band for classified employees and based upon pay rate for unclassified employees within the agency or designated department respectively. Employees who provide direct patient or client care and front-line employees who deliver direct customer services may be exempted from a mandatory furlough. If the furlough includes the entire agency, the furlough must include the agency head. Constitutional officers are exempt from mandatory furlough. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency head, but under no circumstances should the agency close completely.

During this furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits that require employer and employee contributions, including but not limited to contributions to the South Carolina Retirement System or the optional retirement program, the state agencies, institutions, and departments are responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions.

Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Procedure Act.

In the event the reduction for the state agency, institution, or department is due solely to the General Assembly transferring or deleting a program, this section does not apply. The implementation of a furlough program authorized by this section shall be on an agency-by-agency basis. Agencies may allocate the employee's reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily shall count toward furlough days required by the mandatory furlough.

The State Budget and Control Board shall promulgate guidelines and policies, as necessary, to implement the provisions of this section. State agencies shall report information regarding furloughs to the Office of Human Resources of the State Budget and Control Board.

The provisions of this section do not apply to employees of those state agencies or institutions covered by Section 8-11-193 and Section 8-11-193, rather than this section continues to apply to those employees in the manner provided by law."

SECTION 2. Paragraph 89.120, Part IB, of Act 310 of 2008, as added by Act 414 of 2008, is deleted.

SECTION 3. This act takes effect upon approval by the Governor.

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**REPORT OF THE
BUDGET AND FINANCE SUBCOMMITTEE**
(Cooper, Bingham, R. Smith, White, A. Young - Staff Contact: Beverly Smith)

HOUSE BILL 3352

Section 1: Allows for all districts and special schools to transfer funds among appropriated state revenues

Section 2:

1. Suspension from regulations that require expenditures at the sub fund level
 2. Permission to transfer funds among funding categories; excepting those required for debt service of bonded indebtedness
 3. Delay teacher contracts from April 15 to May 15
 4. May negotiate salaries for retirees below minimum salary guidelines for teachers. Also, permission to furlough teachers up to 5 non instructional days as long as district administrative staff is furloughed for an equivalent number of days. Must be stated in contract.
- Districts are encouraged to limit number of low enrollment classes and minimize transportation costs.
 - School board must certify that certain actions were taken and report on a quarterly basis to state superintendent of education and copy chairman of ways and means and chairman of senate finance

Section 3: Suspension from assessments in grades 1,2 and 9; foreign language assessments and physical education assessments and new textbook purchases. And, permission to purchase the most economical type of fuel.

**REPORT OF THE
BUDGET AND FINANCE SUBCOMMITTEE**
(Cooper, Bingham, R. Smith, White, A. Young - Staff Contact: Beverly Smith)

HOUSE BILL 3352

H. 3352 -- Reps. Cooper, Owens, Stewart and Whitmire: A JOINT RESOLUTION TO ALLOW LOCAL SCHOOL DISTRICTS AND SPECIAL SCHOOLS TO TRANSFER FUNDS AMONG APPROPRIATED REVENUES IN ORDER TO ENSURE THE DELIVERY OF ACADEMIC AND ARTS INSTRUCTION DURING THE 2008-2009 AND 2009-2010 FISCAL YEARS; TO ALLOW SCHOOL DISTRICTS FOR FISCAL YEARS 2008-2009 AND 2009-2010 TO SUSPEND CERTAIN PROFESSIONAL STAFFING RATIOS, TO TRANSFER FUNDS, TO DELAY THE DATE THAT TEACHER CONTRACTS ARE ISSUED, AND TO NEGOTIATE SALARIES FOR RETIRED AND TIER I TEACHERS BELOW MINIMUM SALARY REQUIREMENTS; TO ALLOW SCHOOL DISTRICTS FOR THE 2008-2009 AND 2009-2010 FISCAL YEARS TO FURLOUGH TEACHERS AND SCHOOL AND DISTRICT ADMINISTRATORS UPON CERTAIN CONDITIONS; TO PROVIDE CERTIFICATION AND REPORTING REQUIREMENTS; TO SUSPEND CERTAIN FORMATIVE ASSESSMENTS AND TO ALLOW SCHOOL DISTRICTS TO PURCHASE THE MOST ECONOMICAL TYPE OF BUS FUEL FOR THE 2008-2009 AND 2009-2010 FISCAL YEARS.

Summary of Bill:

This is a Joint Resolution that will allow school districts, special schools and the State Department of Education to transfer funds among appropriated state revenues and be relieved of certain regulations in order to absorb recent budget shortfalls. This will be effective during Fiscal Years 2008-09 and 2009-10.

Introduced: 1/27/2009

Received by Ways and Means: 1/27/2009

Estimated Fiscal Impact:

Pending

Subcommittee Recommendation:

Pending Action

Full Committee Recommendation:

Pending Action

THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SC HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFITS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUCTED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.

South Carolina General Assembly
118th Session, 2009-2010

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H. 3352

STATUS INFORMATION

Joint Resolution

Sponsors: Reps. Cooper, Owens, Stewart, Whitmire, Funderburk, Rice, Wylie, Allison, E.H. Pitts and R.L. Brown

Document Path: I:\council\bill\ncd\11152bh09.docx

Introduced in the House on January 27, 2009

Currently residing in the House Committee on **Ways and Means**

Summary: School districts

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/27/2009	House	Introduced and read first time HJ-19
1/27/2009	House	Referred to Committee on Ways and Means HJ-19
1/28/2009	House	Member(s) request name added as sponsor: Funderburk, Rice
1/29/2009	House	Member(s) request name added as sponsor: Wylie, Allison, E.H.Pitts, R.L.Brown

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VERSIONS OF THIS BILL

1/27/2009

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A JOINT RESOLUTION

TO ALLOW LOCAL SCHOOL DISTRICTS AND SPECIAL SCHOOLS TO TRANSFER FUNDS AMONG APPROPRIATED REVENUES IN ORDER TO ENSURE THE DELIVERY OF ACADEMIC AND ARTS INSTRUCTION DURING THE 2008-2009 AND 2009-2010 FISCAL YEARS; TO ALLOW SCHOOL DISTRICTS FOR FISCAL YEARS 2008-2009 AND 2009-2010 TO SUSPEND CERTAIN PROFESSIONAL STAFFING RATIOS, TO TRANSFER FUNDS, TO DELAY THE DATE THAT TEACHER CONTRACTS ARE ISSUED, AND TO NEGOTIATE SALARIES FOR RETIRED AND TERI TEACHERS BELOW MINIMUM SALARY REQUIREMENTS; TO ALLOW SCHOOL DISTRICTS FOR THE 2008-2009 AND 2009-2010 FISCAL YEARS TO FURLOUGH TEACHERS AND SCHOOL AND DISTRICT ADMINISTRATORS UPON CERTAIN CONDITIONS; TO PROVIDE CERTIFICATION AND REPORTING REQUIREMENTS; TO SUSPEND CERTAIN FORMATIVE ASSESSMENTS AND TO ALLOW SCHOOL DISTRICTS TO PURCHASE THE MOST ECONOMICAL TYPE OF BUS FUEL FOR THE 2008-2009 AND 2009-2010 FISCAL YEARS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. For the 2008-2009 and 2009-2010 fiscal years, school districts and special schools of this State may transfer among appropriated state revenues, excluding lottery funds, as needed to ensure the delivery of academic and arts instruction to students.

SECTION 2. Notwithstanding another provision of law and for the 2008-2009 and 2009-2010 fiscal years, school districts must be granted:

1. suspension from professional staffing ratios and regulations and guidelines requiring expenditures at the subfund level;
2. permission to transfer funds among funding categories, including capital funds from the Children's Education Endowment Fund and excluding funds required for debt service or bonded indebtedness;
3. permission to delay the date that contracts are issued to teachers from April 15 to May 15;
4. permission to negotiate salaries for retired teachers or teachers participating in the TERI program below the minimum salary requirements.

If specified in the contract or if the district is otherwise authorized by law to furlough teachers, a district may furlough teachers for up to five noninstructional days provided that school and district administrators are furloughed for an equivalent number of days. All other program regulations, guidelines, reporting, and audit requirements remain in effect unless addressed in this joint resolution. To further ensure resources are maximized, districts are encouraged to limit the number of low enrollment courses, expand virtual instruction, and, to the extent possible, develop schedules to minimize transportation costs of extracurricular and academic competitions.

The school district board of trustees must certify that specific actions were taken in response to the measures provided in Sections 1 and 2 of this joint resolution. The certification and report must be in writing and delivered, on a quarterly basis, to the State Superintendent of Education, and a copy must be forwarded to the Chairman of the Senate Finance Committee, the Chairman of the Senate Education Committee, the Chairman of the House Ways and Means Committee, and the Chairman of the House Education and Public Works Committee.

SECTION 3. Notwithstanding another provision of law and for the 2008-2009 and 2009-2010 fiscal years, implementation of formative assessments for grades one, two, and nine, the foreign language program assessment, the physical education assessment, and new textbook adoptions must be suspended. School districts must be granted permission to purchase the most economical type of bus fuel.

SECTION 4. This joint resolution takes effect upon approval by the Governor.

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HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

Hray/MELTON
FEBRUARY 4, 2009

CLERK OF THE HOUSE

THE WAYS AND MEANS COMMITTEE PROPOSES THE
FOLLOWING AMENDMENT No. TO H. 3352
(COUNCIL\NBD\11206BH09):

REFERENCE IS TO THE JOINT RESOLUTION AS INTRODUCED.

**AMEND THE JOINT RESOLUTION, AS AND IF
AMENDED, BY DELETING SECTION 2 AND
INSERTING:**

**/SECTION 2. NOTWITHSTANDING ANOTHER
PROVISION OF LAW AND FOR THE 2008-2009 AND
2009-2010 FISCAL YEARS, SCHOOL DISTRICTS
MUST BE GRANTED:**

**1. SUSPENSION FROM PROFESSIONAL
STAFFING RATIOS AND SUBFUND LEVEL
EXPENDITURE REGULATIONS AND GUIDELINES;**

2. PERMISSION TO TRANSFER FUNDS AMONG FUNDING CATEGORIES, INCLUDING CAPITAL FUNDS FROM THE CHILDREN'S EDUCATION ENDOWMENT FUND AND EXCLUDING FUNDS REQUIRED FOR DEBT SERVICE OR BONDED INDEBTEDNESS;

3. PERMISSION TO DELAY FROM APRIL FIFTEENTH TO MAY FIFTEENTH THE DATE THAT CONTRACTS ARE ISSUED TO TEACHERS;

4. PERMISSION TO NEGOTIATE SALARIES BELOW THE MINIMUM SALARY REQUIREMENTS FOR RETIRED TEACHERS IF SPECIFIED IN THE CONTRACT OR OTHERWISE AUTHORIZED BY LAW.

IF SPECIFIED IN THE CONTRACT OR IF THE DISTRICT IS OTHERWISE AUTHORIZED BY LAW TO FURLOUGH TEACHERS, A DISTRICT MAY FURLOUGH TEACHERS FOR UP TO FIVE NONINSTRUCTIONAL DAYS PROVIDED THAT SCHOOL AND DISTRICT ADMINISTRATORS ARE FURLOUGHED FOR AN EQUIVALENT NUMBER OF DAYS. ALL OTHER PROGRAM REGULATIONS, GUIDELINES, REPORTING, AND AUDIT

REQUIREMENTS REMAIN IN EFFECT UNLESS ADDRESSED IN THIS JOINT RESOLUTION. TO FURTHER ENSURE RESOURCES ARE MAXIMIZED, DISTRICTS ARE ENCOURAGED TO LIMIT THE NUMBER OF LOW ENROLLMENT COURSES, EXPAND VIRTUAL INSTRUCTION, AND, TO THE EXTENT POSSIBLE, DEVELOP SCHEDULES TO MINIMIZE TRANSPORTATION COSTS OF EXTRACURRICULAR AND ACADEMIC COMPETITIONS.

THE SCHOOL DISTRICT BOARD OF TRUSTEES MUST CERTIFY THAT SPECIFIC ACTIONS WERE TAKEN IN RESPONSE TO THE MEASURES PROVIDED IN SECTIONS 1 AND 2 OF THIS JOINT RESOLUTION. THE CERTIFICATION AND REPORT MUST BE IN WRITING AND DELIVERED, ON A QUARTERLY BASIS, TO THE STATE SUPERINTENDENT OF EDUCATION, AND A COPY MUST BE FORWARDED TO THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, THE CHAIRMAN OF THE SENATE EDUCATION COMMITTEE, THE CHAIRMAN OF THE HOUSE WAYS AND MEANS

**COMMITTEE, AND THE CHAIRMAN OF THE
HOUSE EDUCATION AND PUBLIC WORKS
COMMITTEE./**

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.

REPORT OF THE BUDGET AND FINANCE SUBCOMMITTEE

(Cooper, Bingham, R. Smith, White, A. Young – Staff Contact: Beverly Smith)

HOUSE BILL 3365

H. 3365 -- Rep. Cooper: A BILL TO ENACT THE "HIGHER EDUCATION EFFICIENCY AND ADMINISTRATIVE POLICIES ACT".

Summary of Bill:

To provide flexibility and encourage efficiencies within the institutions of higher education .

Introduced: 1/28/2009

Received by Ways and Means: 1/28/2009

Estimated Fiscal Impact:

Pending

Subcommittee Recommendation:

Pending Action



Full Committee Recommendation:

Pending Action



Other Notes/Comments:

South Carolina General Assembly

118th Session, 2009-2010

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H. 3365

STATUS INFORMATION

General Bill

Sponsors: Rep. Cooper

Document Path: I:\council\bill\bbm\9124htc09.docx

Introduced in the House on January 28, 2009

Currently residing in the House Committee on **Ways and Means**

Summary: Higher Education Efficiency and Administrative Policies Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number

1/28/2009	House	Introduced and read first time HJ-14
1/28/2009	House	Referred to Committee on Ways and Means HJ-14

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VERSIONS OF THIS BILL

1/28/2009

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A BILL

TO ENACT THE "HIGHER EDUCATION EFFICIENCY AND ADMINISTRATIVE POLICIES ACT".

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the "Higher Education Efficiency and Administrative Policies Act".

SECTION 2. This act takes effect upon approval by the Governor.

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HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

DRAFFIN/KUBALA
FEBRUARY 3, 2009

CLERK OF THE HOUSE

WAYS AND MEANS COMMITTEE PROPOSES THE FOLLOWING
AMENDMENT No. TO H. 3365
(COUNCIL\GJK\20085SD09):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

/ PART I

CITATION

**SECTION 1. THIS ACT IS KNOWN AND MAY BE
CITED AS THE “SOUTH CAROLINA HIGHER**

EDUCATION ADMINISTRATIVE EFFICIENCY AND REGULATORY REFORM ACT OF 2009”

PART II

HUMAN RESOURCE REFORMS

**SECTION 2. CHAPTER 101, TITLE 59 OF THE
1976 CODE IS AMENDED BY ADDING:**

“ARTICLE 5

HUMAN RESOURCES AT A PUBLIC INSTITUTION OF HIGHER LEARNING

**SECTION 59-101-1010. AS USED IN THIS
ARTICLE, ‘PUBLIC INSTITUTION OF HIGHER
LEARNING’, OR ‘INSTITUTION’ MEANS A FOUR-
YEAR AND GRADUATE LEVEL PUBLIC
INSTITUTION OF HIGHER LEARNING IN THIS
STATE NOT INCLUDING TECHNICAL COLLEGES.**

SECTION 59-101-1020. (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE GOVERNING BODY OF EACH PUBLIC INSTITUTION OF HIGHER LEARNING HAS THE SOLE RESPONSIBILITY OF ESTABLISHING AND IMPLEMENTING HUMAN RESOURCE POLICIES AND PROCEDURES FOR THOSE EMPLOYEES OF THE INSTITUTION WHO, BUT FOR THE PROVISIONS OF SECTIONS 8-11-260 AND 8-11-270, WOULD BE SUBJECT TO THE PROVISIONS OF ARTICLE 3, CHAPTER 11 OF TITLE 8. THESE POLICIES INCLUDE, BUT ARE NOT LIMITED TO, PROMOTION, HIRING AND TERMINATION, JOB DESCRIPTIONS, COMPENSATION, LEAVE, HOURS AND CONDITIONS OF EMPLOYMENT, FURLOUGHS, AND REDUCTIONS IN FORCE.

(B) INSTITUTION EMPLOYEES AFFECTED BY THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION, WHERE NOT EXEMPT PURSUANT TO SECTION 8-17-370 ARE COVERED BY THE PROVISIONS OF ARTICLE 5, CHAPTER 17, OF

TITLE 8, THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT.

SECTION 59-101-1030. NOTHING IN THIS ARTICLE MAY BE CONSTRUED AS CHANGING OR RESTRICTING THE ACCESS OF AN INSTITUTION'S EMPLOYEES TO COVERAGE UNDER THE STATE HEALTH INSURANCE PLAN AND OTHER INSURANCE COVERAGE PROVIDED THROUGH THE OFFICE OF INSURANCE SERVICES OF THE STATE BUDGET AND CONTROL BOARD WHEN THESE EMPLOYEES MEET THE ELIGIBILITY REQUIREMENTS OR TO MEMBERSHIP OR PARTICIPATION IN THE VARIOUS STATE-OPERATED RETIREMENT SYSTEMS OPERATED BY THE RETIREMENT SYSTEMS DIVISION OF THE STATE BUDGET AND CONTROL BOARD.

SECTION 59-101-1040. FOR PURPOSES OF THE DISTRIBUTION OF APPROPRIATED FUNDS FOR EMPLOYEE PAY RAISES AND EMPLOYEE BENEFITS ONLY, INSTITUTIONS ARE DEEMED TO RETAIN THE FTE'S OCCUPIED BY EMPLOYEES AFFECTED BY THE PROVISIONS OF SECTION 59-101-1010(A)."

SECTION 3. SECTION 8-11-260 OF THE 1976 CODE, AS LAST AMENDED BY ACT 353 OF 2008, IS FURTHER AMENDED BY ADDING A NEW ITEM AT THE END TO READ:

"(L)EMPLOYEES OF FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES."

PART III

FACILITIES AND CAPITAL EXPENDITURE REVISIONS

SECTION 4. A. CHAPTER 47, TITLE 2 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 2-47-53. (A) AS TO ALL PROJECTS PROPOSED BY FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES REFERRED TO HEREIN AS INSTITUTIONS OF HIGHER LEARNING, THE COMMITTEE SHALL ESTABLISH FORMALLY EACH PERMANENT IMPROVEMENT PROJECT BEFORE ACTIONS WHICH IMPLEMENT THE PROJECT IN ANY WAY MAY BE UNDERTAKEN AND BEFORE EXPENDITURE OF FUNDS FOR ANY SERVICES OR FOR ANY OTHER PROJECT PURPOSE CONTRACTED FOR, DELIVERED, OR OTHERWISE PROVIDED PRIOR TO THE DATE OF THE FORMAL ACTION OF THE COMMITTEE TO ESTABLISH THE PROJECT MAY BE APPROVED. THESE INSTITUTIONS OF HIGHER LEARNING MAY ADVERTISE AND INTERVIEW FOR PROJECT ARCHITECTURAL AND ENGINEERING SERVICES FOR A PENDING PROJECT, AND THE ARCHITECTURAL AND ENGINEERING CONTRACT MAY BE AWARDED BEFORE A STATE PROJECT NUMBER IS ASSIGNED. AFTER THE COMMITTEE HAS REVIEWED THE FORM TO BE USED TO REQUEST THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS AND HAS REVIEWED THE TIME SCHEDULE FOR CONSIDERING THE REQUESTS AS PROPOSED BY THE INSTITUTION, REQUESTS TO ESTABLISH PERMANENT IMPROVEMENT PROJECTS MAY BE MADE IN SUCH FORM AND AT SUCH TIMES AS THE COMMITTEE MAY REQUIRE.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C)(2), A PROPOSAL TO FINANCE ALL OR ANY PART OF ANY PROJECT USING ANY FUNDS NOT PREVIOUSLY AUTHORIZED SPECIFICALLY FOR THE PERMANENT IMPROVEMENT PROJECT BY THE GENERAL ASSEMBLY OR USING ANY FUNDS NOT PREVIOUSLY APPROVED FOR THE PROJECT BY THE COMMITTEE MUST BE REFERRED TO THE COMMITTEE FOR REVIEW PRIOR TO APPROVAL BY THE BOARD.

(C)(1) A PROPOSED REVISION OF THE SCOPE OR OF THE BUDGET OF AN ESTABLISHED PERMANENT IMPROVEMENT PROJECT DEEMED BY THE COMMITTEE TO BE SUBSTANTIAL MUST BE REVIEWED PRIOR TO ANY FINAL ACTION BY THE COMMITTEE. IN MAKING THEIR DETERMINATIONS REGARDING CHANGES IN PROJECT SCOPE, THE COMMITTEE SHALL UTILIZE THE PERMANENT IMPROVEMENT PROJECT PROPOSAL AND JUSTIFICATION STATEMENTS, TOGETHER WITH SUPPORTING DOCUMENTATION, CONSIDERED AT THE TIME THE PROJECT WAS AUTHORIZED OR ESTABLISHED ORIGINALLY. EXCEPT AS PROVIDED IN SUBSECTION (C)(2), ANY PROPOSAL TO INCREASE THE BUDGET OF A PREVIOUSLY APPROVED PROJECT USING ANY FUNDS NOT PREVIOUSLY APPROVED FOR THE PROJECT BY THE COMMITTEE MUST IN ALL CASES BE DEEMED TO BE A SUBSTANTIAL REVISION OF A PROJECT BUDGET WHICH MUST BE REFERRED TO THE COMMITTEE FOR REVIEW. THE COMMITTEE MUST BE ADVISED PROMPTLY OF ALL ACTIONS TAKEN BY THE BOARD WHICH APPROVE REVISIONS IN THE SCOPE OF OR THE BUDGET OF ANY PREVIOUSLY ESTABLISHED PERMANENT IMPROVEMENT PROJECT NOT DEEMED SUBSTANTIAL BY THE BOARD.

(2) NOTWITHSTANDING SUBSECTION (C)(1), WITH REGARD TO THESE INSTITUTIONS OF HIGHER LEARNING, A PREVIOUSLY APPROVED PERMANENT IMPROVEMENT PROJECT WHOSE TOTAL COSTS INCREASE NOT MORE THAN TWENTY PERCENT OF THE INITIALLY APPROVED TOTAL COSTS, BUT NOT TO EXCEED TWO MILLION DOLLARS, IS NOT REQUIRED TO HAVE THAT PROPOSAL REVIEWED BY THE COMMITTEE; EXCEPT THAT THE PROPOSAL IS SUBJECT TO STAFF LEVEL REVIEW.

(D)(1) FOR PURPOSES OF THIS CHAPTER, WITH REGARD TO THESE INSTITUTIONS OF HIGHER LEARNING, PERMANENT IMPROVEMENT PROJECT IS DEFINED AS ANY OF THE FOLLOWING IN WHICH, AFTER COMPLETION OF ARCHITECTURAL AND ENGINEERING AND OTHER TYPES OF PLANNING AND DESIGN WORK, THE TOTAL COST OF THE ITEM IS ONE MILLION DOLLARS OR MORE:

(A) ACQUISITION OF LAND;

(B) ACQUISITION, AS OPPOSED TO THE CONSTRUCTION, OF BUILDINGS OR OTHER STRUCTURES;

(C) CONSTRUCTION OF ADDITIONAL FACILITIES AND WORK ON EXISTING FACILITIES FOR ANY GIVEN PROJECT INCLUDING THEIR RENOVATION, REPAIR, MAINTENANCE, ALTERATION, OR DEMOLITION;

(D) CAPITAL LEASE PURCHASE OF A FACILITY ACQUISITION OR CONSTRUCTION; OR

(E) EQUIPMENT THAT EITHER BECOMES A PERMANENT FIXTURE OF A FACILITY OR DOES NOT BECOME PERMANENT BUT IS INCLUDED IN THE CONSTRUCTION CONTRACT SHALL BE INCLUDED AS A PART OF A PROJECT.

(2) ANY PERMANENT IMPROVEMENT PROJECT THAT MEETS THE ABOVE DEFINITION MUST BECOME A PROJECT, REGARDLESS OF THE SOURCE OF FUNDS. HOWEVER, AN INSTITUTION OF HIGHER LEARNING THAT HAS BEEN AUTHORIZED OR APPROPRIATED CAPITAL IMPROVEMENT BOND FUNDS, CAPITAL RESERVE FUND OR STATE APPROPRIATED FUNDS, OR STATE INFRASTRUCTURE BOND FUNDS BY THE GENERAL ASSEMBLY FOR CAPITAL IMPROVEMENTS SHALL PROCESS A PERMANENT IMPROVEMENT PROJECT, REGARDLESS OF THE AMOUNT.

(E) FOR PURPOSES OF THIS CHAPTER, CLEMSON UNIVERSITY PUBLIC SERVICES ACTIVITIES (CLEMSON--PSA) IS SUBJECT TO SUBSECTION (D) OF THIS SECTION AND SECTION 2-47-40(A) AND (D)."

B. SECTION 1-11-65(A) OF THE 1976 CODE IS AMENDED TO READ:

"(A) ALL TRANSACTIONS INVOLVING REAL PROPERTY, MADE FOR OR BY ANY GOVERNMENTAL BODIES, EXCLUDING POLITICAL SUBDIVISIONS OF THE STATE AND EXCLUDING A REAL PROPERTY TRANSACTION MADE FOR OR BY A FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES AT A TOTAL COST OF LESS THAN ONE

MILLION DOLLARS, MUST BE APPROVED BY AND RECORDED WITH THE STATE BUDGET AND CONTROL BOARD. UPON APPROVAL OF THE TRANSACTION BY THE BUDGET AND CONTROL BOARD, THERE MUST BE RECORDED SIMULTANEOUSLY WITH THE DEED, A CERTIFICATE OF ACCEPTANCE, WHICH ACKNOWLEDGES THE BOARD'S APPROVAL OF THE TRANSACTION. THE COUNTY RECORDING AUTHORITY CANNOT ACCEPT FOR RECORDING ANY DEED NOT ACCOMPANIED BY A CERTIFICATE OF ACCEPTANCE. THE BOARD MAY EXEMPT A GOVERNMENTAL BODY FROM THE PROVISIONS OF THIS SUBSECTION."

SECTION 5. CHAPTER 47, TITLE 2 OF THE 1976 CODE IS AMENDED BY ADDING:

"SECTION 2-47-54. THE BOARDS OF TRUSTEES OF FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES WITH THE APPROVAL OF THE COMMITTEE MAY ENTER INTO ONE OR MORE GROUND LEASE AGREEMENTS WITH A PRIVATE ENTITY WHEREBY THE PRIVATE ENTITY WILL PROVIDE ALL SERVICES NECESSARY FOR THE CREATION AND OPERATION OF ON-CAMPUS INFRASTRUCTURE INCLUDING, BUT NOT LIMITED TO, FINANCING, DESIGNING, CONSTRUCTING, MANAGING, OPERATING, MAINTAINING, AND RELATED SERVICES. UPON EXPIRATION OF THE GROUND LEASE AGREEMENT TERM, THE PRIVATE ENTITY SHALL SURRENDER UNTO THE BOARD OF TRUSTEES SUCH PREMISES WITH THE EXISTING BUILDINGS, OTHER STRUCTURES, AND IMPROVEMENTS CONSTRUCTED AND LOCATED THEREON AND THEREIN, IN THE SAME CONDITION AS WHEN THE CONSTRUCTION OF THE BUILDINGS, OTHER STRUCTURES, AND IMPROVEMENTS WERE COMPLETED, ONLY NATURAL AND NORMAL WEAR AND TEAR EXCEPTED. THE COMMITTEE MUST FIRST APPROVE ALL GROUND LEASE AGREEMENT TERMS AND CONDITIONS INCLUDING THE CONSIDERATION INVOLVED, AND THE FULL FAITH AND CREDIT OF

THE STATE TOWARD THE LEASE OBLIGATIONS MUST NOT BE PLEDGED, AND ANY STATEMENT TO THE CONTRARY IS DEEMED NULL AND VOID AS A MATTER OF PUBLIC POLICY. THE PRIVATE ENTITY MAY BE A NONPROFIT ORGANIZATION. THE COMMITTEE APPROVAL REQUIRED IS INSTEAD OF OR A SUBSTITUTE FOR ANY OTHER APPROVAL REQUIRED BY ANY OTHER PROVISION OF LAW OR REGULATION IN CONNECTION WITH THE UNDERTAKING OF THE PRIVATE ENTITY AND THE SUBJECT INSTITUTION; HOWEVER, THE PRIVATE ENTITY AND THE SUBJECT INSTITUTION SHALL ADHERE TO FIRE, LIFE, AND SAFETY CODES AS REQUIRED BY THE OFFICE OF THE STATE ENGINEER. THIS SECTION AND THE APPROVAL REQUIRED BY THIS SECTION DOES NOT EXEMPT ANY TRANSACTION OR ENTITY FROM COMPLYING WITH CHAPTER 35, TITLE 11, TO THE EXTENT NOT OTHERWISE GOVERNED BY THIS CHAPTER.

SECTION 6. A. SECTION 2-47-30 OF THE 1976 CODE IS AMENDED TO READ:

“SECTION 2-47-30. THE COMMITTEE IS SPECIFICALLY CHARGED WITH, BUT NOT LIMITED TO, THE ~~FOLLOWING~~ RESPONSIBILITIES TO:

(1) ~~TO~~ REVIEW, PRIOR TO APPROVAL BY THE BUDGET AND CONTROL BOARD, IF REQUIRED, THE ESTABLISHMENT OF ANY PERMANENT IMPROVEMENT PROJECT AND THE SOURCE OF FUNDS FOR ~~ANY SUCH A~~ PROJECT NOT PREVIOUSLY AUTHORIZED SPECIFICALLY BY THE GENERAL ASSEMBLY;

(2) ~~TO~~ STUDY THE AMOUNT AND NATURE OF EXISTING GENERAL OBLIGATION AND INSTITUTIONAL BOND OBLIGATIONS AND THE CAPABILITY OF THE STATE TO FULFILL SUCH OBLIGATIONS BASED ON CURRENT AND PROJECTED REVENUES;

(3) ~~TO~~ RECOMMEND PRIORITIES OF FUTURE BOND ISSUANCE BASED ON THE SOCIAL AND ECONOMIC NEEDS OF THE STATE;

(4) ~~TO~~ RECOMMEND PRUDENT LIMITATIONS OF BOND OBLIGATIONS RELATED TO PRESENT AND FUTURE REVENUE ESTIMATES;

(5) ~~TO~~ CONSULT WITH INDEPENDENT BOND COUNSEL AND OTHER NONLEGISLATIVE AUTHORITIES ON SUCH MATTERS AND WITH FISCAL OFFICIALS OF OTHER STATES TO GAIN IN-DEPTH KNOWLEDGE OF CAPITAL MANAGEMENT AND ASSIST IN THE FORMULATION OF SHORT AND LONG-TERM RECOMMENDATIONS FOR THE GENERAL ASSEMBLY;

(6) ~~TO~~ CARRY OUT ALL OF THE ABOVE ASSIGNED RESPONSIBILITIES IN CONSULTATION AND COOPERATION WITH THE EXECUTIVE BRANCH OF GOVERNMENT AND THE BUDGET AND CONTROL BOARD; AND

(7) ~~TO~~ REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY ANNUALLY OR MORE FREQUENTLY IF DEEMED ADVISABLE BY THE COMMITTEE.”

B. SECTION 2-47-35 OF THE 1976 CODE IS AMENDED TO READ:

“SECTION 2-47-35. ~~NO~~ A PROJECT AUTHORIZED IN WHOLE OR IN PART FOR CAPITAL IMPROVEMENT BOND FUNDING ~~UNDER~~ PURSUANT TO THE PROVISIONS OF ACT 1377 OF 1968, AS AMENDED, ~~MAY~~ MUST NOT BE IMPLEMENTED UNTIL FUNDS ~~CAN BE~~ ARE MADE AVAILABLE AND UNTIL THE JOINT BOND REVIEW COMMITTEE, IN CONSULTATION WITH THE BUDGET AND CONTROL BOARD, IF REQUIRED, ESTABLISHES PRIORITIES FOR THE FUNDING OF THE PROJECTS. THE JOINT BOND REVIEW COMMITTEE SHALL REPORT ITS PRIORITIES TO THE MEMBERS OF THE GENERAL ASSEMBLY WITHIN THIRTY DAYS OF THE ESTABLISHMENT OF THE FUNDING PRIORITIES.”

C. SECTION 2-47-40 OF THE 1976 CODE IS AMENDED TO READ:

“SECTION 2-47-40. (A) TO ASSIST THE STATE BUDGET AND CONTROL BOARD (THE BOARD), IF REQUIRED, AND THE JOINT BOND REVIEW COMMITTEE (THE COMMITTEE) IN CARRYING OUT THEIR RESPECTIVE RESPONSIBILITIES, ~~ANY~~ AN AGENCY OR INSTITUTION REQUESTING OR RECEIVING FUNDS FROM ANY SOURCE FOR USE IN THE FINANCING OF ~~ANY~~ A PERMANENT IMPROVEMENT PROJECT, AS A MINIMUM, SHALL PROVIDE TO THE BOARD, PURSUANT TO SECTION 2-47-50 AND TO THE COMMITTEE PURSUANT TO SECTION 2-47-53, IN SUCH FORM AND AT SUCH TIMES AS THE BOARD, ~~AFTER REVIEW BY~~ OR THE COMMITTEE, MAY PRESCRIBE: (A) A COMPLETE DESCRIPTION OF THE PROPOSED PROJECT; (B) A STATEMENT OF JUSTIFICATION FOR THE PROPOSED PROJECT; (C) A STATEMENT OF THE PURPOSES AND INTENDED USES OF THE PROPOSED PROJECT; (D) THE ESTIMATED TOTAL COST OF THE PROPOSED PROJECT; (E) AN ESTIMATE OF THE ADDITIONAL FUTURE ANNUAL OPERATING COSTS ASSOCIATED WITH THE PROPOSED PROJECT; (F) A STATEMENT OF THE EXPECTED IMPACT OF THE PROPOSED PROJECT ON THE FIVE-YEAR OPERATING PLAN OF THE AGENCY OR INSTITUTION PROPOSING THE PROJECT; (G) A PROPOSED PLAN OF FINANCING THE PROJECT, SPECIFICALLY IDENTIFYING FUNDS PROPOSED FROM SOURCES OTHER THAN CAPITAL IMPROVEMENT BOND AUTHORIZATIONS; AND (H) THE SPECIFICATION OF THE PRIORITY OF EACH PROJECT AMONG THOSE PROPOSED.

(B) ALL INSTITUTIONS OF HIGHER LEARNING SHALL SUBMIT PERMANENT IMPROVEMENT PROJECT PROPOSAL AND JUSTIFICATION STATEMENTS TO THE ~~BOARD~~ COMMITTEE PURSUANT TO SECTION 2-47-53 THROUGH THE COMMISSION ON HIGHER EDUCATION WHICH SHALL FORWARD ALL SUCH STATEMENTS AND ALL SUPPORTING DOCUMENTATION RECEIVED TO THE ~~BOARD~~ COMMITTEE TOGETHER WITH ITS COMMENTS AND RECOMMENDATIONS. THE RECOMMENDATIONS OF THE COMMISSION ON HIGHER EDUCATION, AMONG OTHER THINGS, SHALL INCLUDE ALL OF THE PERMANENT IMPROVEMENT PROJECTS REQUESTED BY THE SEVERAL INSTITUTIONS

LISTED IN THE ORDER OF PRIORITY DEEMED APPROPRIATE BY THE COMMISSION ON HIGHER EDUCATION WITHOUT REGARD TO THE SOURCES OF FUNDS PROPOSED FOR THE FINANCING OF THE PROJECTS REQUESTED.

(C) THE BOARD SHALL FORWARD A COPY OF EACH PROJECT PROPOSAL AND JUSTIFICATION STATEMENT AND SUPPORTING DOCUMENTATION RECEIVED PURSUANT TO SUBSECTION (A) TOGETHER WITH THE BOARD'S RECOMMENDATIONS ON SUCH PROJECTS TO THE COMMITTEE FOR ITS REVIEW AND ACTION. THE RECOMMENDATIONS OF THE COMMISSION ON HIGHER EDUCATION ~~SHALL BE INCLUDED IN THE MATERIALS~~ MUST BE FORWARDED TO THE COMMITTEE ~~BY THE BOARD.~~

(D) ~~NO PROVISION IN THIS SECTION OR ELSEWHERE IN THIS~~ THIS CHAPTER, ~~SHALL BE CONSTRUED TO~~ DOES NOT LIMIT IN ANY MANNER THE PREROGATIVES OF THE COMMITTEE AND THE GENERAL ASSEMBLY WITH REGARD TO RECOMMENDING OR AUTHORIZING PERMANENT IMPROVEMENT PROJECTS AND THE FUNDING ~~SUCH~~ THE PROJECTS MAY REQUIRE."

D. SECTION 2-47-50 OF THE 1976 CODE IS AMENDED TO READ:

"SECTION 2-47-50. THE (A)AS TO ALL PROPOSED PROJECTS OTHER THAN THOSE PROPOSED FOR FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES THROUGH THE COMMISSION ON HIGHER EDUCATION, AS PROVIDED IN SECTION 2-47-53, THE BOARD SHALL ESTABLISH FORMALLY EACH PERMANENT IMPROVEMENT PROJECT BEFORE ACTIONS OF ANY SORT WHICH IMPLEMENT THE PROJECT IN ANY WAY MAY BE UNDERTAKEN AND NO BEFORE EXPENDITURE OF ANY FUNDS FOR ANY SERVICES OR FOR ANY OTHER PROJECT PURPOSE CONTRACTED FOR, DELIVERED, OR OTHERWISE PROVIDED PRIOR TO THE DATE OF THE FORMAL ACTION OF THE BOARD

TO ESTABLISH THE PROJECT ~~SHALL~~ MAY BE APPROVED. STATE AGENCIES ~~AND INSTITUTIONS~~ MAY ADVERTISE AND INTERVIEW FOR PROJECT ARCHITECTURAL AND ENGINEERING SERVICES FOR A PENDING PROJECT SO LONG AS THE ARCHITECTURAL AND ENGINEERING CONTRACT IS NOT AWARDED UNTIL AFTER A STATE PROJECT NUMBER IS ASSIGNED. AFTER THE COMMITTEE HAS REVIEWED THE FORM TO BE USED TO REQUEST THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS AND HAS REVIEWED THE TIME SCHEDULE FOR CONSIDERING ~~SUCH~~ THE REQUESTS AS PROPOSED BY THE BOARD, REQUESTS TO ESTABLISH PERMANENT IMPROVEMENT PROJECTS ~~SHALL~~ MUST BE MADE IN ~~SUCH~~ A FORM AND AT SUCH TIMES AS THE BOARD MAY REQUIRE.

(B) ~~ANY~~ A PROPOSAL TO FINANCE ALL OR ANY PART OF ~~ANY~~ A PROJECT USING ~~ANY~~ FUNDS NOT PREVIOUSLY AUTHORIZED SPECIFICALLY FOR THE PROJECT BY THE GENERAL ASSEMBLY OR USING ~~ANY~~ FUNDS NOT PREVIOUSLY APPROVED FOR THE PROJECT BY THE BOARD AND REVIEWED BY THE COMMITTEE ~~SHALL~~ MUST BE REFERRED TO THE COMMITTEE FOR REVIEW PRIOR TO APPROVAL BY THE BOARD.

(C) ~~ANY~~ A PROPOSED REVISION OF THE SCOPE OR OF THE BUDGET OF AN ESTABLISHED PERMANENT IMPROVEMENT PROJECT DEEMED BY THE BOARD TO BE SUBSTANTIAL ~~SHALL~~ MUST BE REFERRED TO THE COMMITTEE FOR ITS REVIEW ~~PRIOR TO~~ BEFORE ANY FINAL ACTION BY THE BOARD. IN MAKING THEIR DETERMINATIONS REGARDING CHANGES IN PROJECT SCOPE, THE BOARD AND THE COMMITTEE SHALL UTILIZE THE PERMANENT IMPROVEMENT PROJECT PROPOSAL AND JUSTIFICATION STATEMENTS, TOGETHER WITH ANY SUPPORTING DOCUMENTATION, CONSIDERED AT THE TIME THE PROJECT WAS AUTHORIZED OR ESTABLISHED ORIGINALLY. ~~ANY~~ A PROPOSAL TO INCREASE THE BUDGET OF A PREVIOUSLY APPROVED PROJECT USING ~~ANY~~ FUNDS NOT PREVIOUSLY APPROVED FOR THE PROJECT BY THE BOARD AND REVIEWED BY THE COMMITTEE ~~SHALL IN ALL CASES~~ MUST

BE DEEMED IN ALL CASES TO BE A SUBSTANTIAL REVISION OF A PROJECT BUDGET ~~WHICH~~ THAT SHALL BE REFERRED TO THE COMMITTEE FOR REVIEW. THE COMMITTEE ~~SHALL~~ MUST BE ADVISED PROMPTLY OF ALL ACTIONS TAKEN BY THE BOARD WHICH APPROVE REVISIONS IN THE SCOPE OF OR THE BUDGET OF ANY A PREVIOUSLY ESTABLISHED PERMANENT IMPROVEMENT PROJECT NOT DEEMED SUBSTANTIAL BY THE BOARD.

~~FOR PURPOSES OF THIS CHAPTER, WITH REGARD TO ALL INSTITUTIONS OF HIGHER LEARNING, PERMANENT IMPROVEMENT PROJECT IS DEFINED AS:~~

- ~~(1) ACQUISITION OF LAND, REGARDLESS OF COST;~~
- ~~(2) ACQUISITION, AS OPPOSED TO THE CONSTRUCTION, OF BUILDINGS OR OTHER STRUCTURES, REGARDLESS OF COST;~~
- ~~(3) CONSTRUCTION OF ADDITIONAL FACILITIES AND WORK ON EXISTING FACILITIES FOR ANY GIVEN PROJECT INCLUDING THEIR RENOVATION, REPAIR, MAINTENANCE, ALTERATION, OR DEMOLITION IN THOSE INSTANCES IN WHICH THE TOTAL COST OF ALL WORK INVOLVED IS FIVE HUNDRED THOUSAND DOLLARS OR MORE;~~
- ~~(4) ARCHITECTURAL AND ENGINEERING AND OTHER TYPES OF PLANNING AND DESIGN WORK, REGARDLESS OF COST, WHICH IS INTENDED TO RESULT IN A PERMANENT IMPROVEMENT PROJECT. MASTER PLANS AND FEASIBILITY STUDIES ARE NOT PERMANENT IMPROVEMENT PROJECTS AND ARE NOT TO BE INCLUDED;~~
- ~~(5) CAPITAL LEASE PURCHASE OF A FACILITY ACQUISITION OR CONSTRUCTION; AND~~
- ~~(6) EQUIPMENT THAT EITHER BECOMES A PERMANENT FIXTURE OF A FACILITY OR DOES NOT BECOME PERMANENT BUT IS INCLUDED IN THE CONSTRUCTION CONTRACT SHALL BE INCLUDED AS A PART OF A PROJECT.~~

~~ANY PERMANENT IMPROVEMENT PROJECT THAT MEETS THE ABOVE DEFINITION MUST BECOME A PROJECT, REGARDLESS OF THE SOURCE OF FUNDS. HOWEVER, AN INSTITUTION OF HIGHER LEARNING THAT HAS~~

~~BEEN AUTHORIZED OR APPROPRIATED CAPITAL IMPROVEMENT BOND FUNDS, CAPITAL RESERVE FUND OR STATE APPROPRIATED FUNDS, OR STATE INFRASTRUCTURE BOND FUNDS BY THE GENERAL ASSEMBLY FOR CAPITAL IMPROVEMENTS SHALL PROCESS A PERMANENT IMPROVEMENT PROJECT, REGARDLESS OF THE AMOUNT."~~

PART IV

FINANCING AND ADMINISTRATIVE IMPROVEMENTS AND CHANGES

SECTION 7. A. CHAPTER 147, TITLE 59 OF THE 1976 CODE IS AMENDED BY ADDING:

"SECTION 59-147-35. (A) THE PROVISIONS OF THIS CHAPTER MAY BE USED FOR THE PURPOSE OF FINANCING THE COST OF ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION, IMPROVEMENT OF LAND, BUILDINGS, AND OTHER IMPROVEMENTS TO REAL PROPERTY AND EQUIPMENT FOR PROVIDING AND EQUIPPING A DEGREE GRANTING EDUCATIONAL FACILITY SERVING THE NEEDS OF THE UNIVERSITY WHEN THE REVENUE TO BE PLEDGED IS THAT DERIVED FROM A LEASE AGREEMENT IN WHICH THE UNIVERSITY LEASES UNIVERSITY PROPERTY. IN ADDITION TO PROCURING THE DEGREE GRANTING FACILITY, BOND PROCEEDS ALSO MAY BE USED FOR RENOVATIONS AND RELATED COSTS OF THE LEASED PROPERTY. THE LAST MATURING BONDS SECURED BY THE LEASE MUST MATURE NOT LATER THAN THE EARLIER OF THE TERMINATION OF THE LEASE AGREEMENT OR THIRTY YEARS FROM ISSUANCE OF THE BONDS.

(B) WHERE PROVISIONS OF THIS SECTION CONFLICT WITH OTHER PROVISIONS OF THIS ARTICLE, THE PROVISIONS OF THIS SECTION APPLY."

B. SECTIONS 59-147-30 AND 59-147-120 OF THE 1976 CODE ARE AMENDED TO READ:

“SECTION 59-147-30. SUBJECT TO THE APPROVAL OF THE STATE ~~BUDGET AND CONTROL BOARD~~ JOINT BOND REVIEW COMMITTEE BY RESOLUTION DULY ADOPTED, THE UNIVERSITY MAY ISSUE REVENUE BONDS OF THE UNIVERSITY FOR THE PURPOSE OF FINANCING OR REFINANCING IN WHOLE OR IN PART THE COST OF ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND IMPROVEMENT OF LAND, BUILDINGS, AND OTHER IMPROVEMENTS TO REAL PROPERTY AND EQUIPMENT FOR THE PURPOSE OF PROVIDING FACILITIES SERVING THE NEEDS OF THE UNIVERSITY INCLUDING, BUT NOT LIMITED TO, DORMITORIES, APARTMENT BUILDINGS, DWELLING HOUSES, BOOKSTORE AND OTHER UNIVERSITY OPERATED STORES, LAUNDRY, DINING HALLS, CAFETERIAS, PARKING FACILITIES, STUDENT RECREATIONAL, ENTERTAINMENT AND FITNESS RELATED FACILITIES, INNS, CONFERENCE AND OTHER NONDEGREE EDUCATIONAL FACILITIES AND SIMILAR AUXILIARY FACILITIES OF THE UNIVERSITY AND ANY OTHER FACILITIES WHICH ARE AUXILIARY TO ANY OF THE FOREGOING EXCLUDING, HOWEVER, ATHLETIC DEPARTMENT PROJECTS WHICH PRIMARILY SERVE VARSITY ATHLETIC TEAMS OF THE UNIVERSITY.

SECTION 59-147-120. EXCEPT AS PROVIDED IN SECTION 59-147-35, THIS CHAPTER MAY NOT BE CONSTRUED AS ALLOWING ANY RESEARCH OR FOUR-YEAR PUBLIC INSTITUTION OF HIGHER EDUCATION TO ISSUE ANY REVENUE BONDS OF A TYPE NOT OTHERWISE ALLOWED BY LAW FOR THE PARTICULAR INSTITUTION AS OF DECEMBER 31, 1995.”

SECTION 8. CHAPTER 101, TITLE 59 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 59-101-415. (A) BEGINNING JULY 1, 2009, A SELF-SUPPORTING ENTERPRISE OF A FOUR-YEAR OR GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES MAY KEEP THE REVENUE GENERATED FROM THE ENTERPRISE AS WELL AS THE INTEREST AND EARNINGS ON THESE REVENUES.

(B) FOR PURPOSES OF SUBSECTION (A), A SELF-SUPPORTING ENTERPRISE IS AN ENDEAVOR THAT FURNISHES GOODS OR SERVICES TO STUDENTS, FACULTY, AND STAFF, OTHER INSTITUTIONAL DEPARTMENTS AND TO THE GENERAL PUBLIC FOR A FEE RELATED TO THE COST OF THE SERVICE. THESE ACTIVITIES MAY BE INCIDENTAL TO THE CONDUCT OF INSTRUCTION, RESEARCH, AND PUBLIC SERVICE, OR TO PROVIDE INSTRUCTIONAL AND LABORATORY EXPERIENCE FOR STUDENTS AND MAY CREATE GOODS AND SERVICES THAT MAY BE SOLD TO STUDENTS, FACULTY, STAFF, AND THE GENERAL PUBLIC. SELF-SUPPORTING ENTERPRISES GENERATE REVENUES TO SUPPORT OPERATING NEEDS OF THE ACTIVITY AND INCLUDE, BUT ARE NOT LIMITED TO, PROFESSIONAL DEVELOPMENT PROGRAMS, BOTANICAL GARDENS, MUSEUMS, ANIMAL RESEARCH CENTERS AND RESEARCH LABS AND SERVICE CENTERS.”

SECTION 9. CHAPTER 101, TITLE 59 OF THE 1976 CODE IS AMENDED BY ADDING:

“ARTICLE 7

PROVISIONS APPLICABLE TO BOND ACTS FOR INSTITUTIONS OF HIGHER LEARNING

SECTION 59-101-1010. AS USED IN THIS ARTICLE:

(1) ‘BOND ACTS’ MEANS THE VARIOUS REVENUE BOND ACTS FOR PUBLIC INSTITUTIONS, INCLUDING THOSE IDENTIFIED IN THIS ITEM AND ALSO INCLUDING ANY OTHERS NOT IDENTIFIED IN THIS ITEM.

- (A) UNIVERSITY OF SOUTH CAROLINA:**
 - (I) ACT 518 OF 1980 - ATHLETIC FACILITIES REVENUE BONDS;**
 - (II) ACT 366 OF 2008 - BUSINESS SCHOOL REVENUE BONDS;**
 - (III) ARTICLE 3, CHAPTER 117, TITLE 59 - AUXILIARY FACILITIES REVENUE BONDS;**
- (B) CLEMSON UNIVERSITY:**
 - (I) ARTICLE 5, CHAPTER 119, TITLE 59 - CLEMSON REVENUE BONDS;**
 - (II) ARTICLE 9, CHAPTER 119, TITLE 59 - ATHLETIC FACILITIES REVENUE BONDS;**
 - (III) ARTICLE 7, CHAPTER 119, TITLE 59 - AUXILIARY FACILITIES REVENUE BONDS;**
- (C) MEDICAL UNIVERSITY OF SOUTH CAROLINA:**
 - (I) ACT 392 OF 1982 - STUDENT AND FACULTY HOUSING FACILITIES;**
- (D) THE CITADEL:**
 - (I) ARTICLE 3, CHAPTER 121, TITLE 59 - CITADEL ATHLETIC FACILITIES BONDS;**
 - (II) CHAPTER 122, TITLE 59 - THE CITADEL HOUSING REVENUE BONDS;**
- (E) COLLEGE OF CHARLESTON:**
 - (I) CHAPTER 130, TITLE 59 - REVENUE BONDS;**
 - (II) CHAPTER 131, TITLE 59 - PARKING FACILITIES AT THE COLLEGE OF CHARLESTON;**
 - (III) ACT 1281 OF 1970 - STUDENT AND FACULTY HOUSING REVENUE BONDS AND PLANT IMPROVEMENT BONDS;**
 - (IV) ACT 77 OF 1975 - PARKING FACILITIES REVENUE BONDS;**
 - (V) ACT 653 OF 1978 - STUDENT AND HOUSING REVENUE BONDS;**

(F) SOUTH CAROLINA STATE UNIVERSITY:

(I) ARTICLE 3, CHAPTER 127, TITLE 59 - SPECIAL OBLIGATIONS BONDS;

(II) ARTICLE 4, CHAPTER 127, TITLE 59 - SOUTH CAROLINA STATE UNIVERSITY ACADEMICS AND ADMISSIONS FACULTY FACILITIES BONDS;

(G) WINTHROP UNIVERSITY:

(I) ARTICLE 3, CHAPTER 125, TITLE 59 - WINTHROP UNIVERSITY FACILITIES REVENUE BOND ACT;

(II) ARTICLE 5, CHAPTER 125 - WINTHROP UNIVERSITY ATHLETIC FACILITIES BONDS;

(III) ACT 488 OF 1965 - STUDENT AND FACULTY HOUSING REVENUE BONDS;

(H) COASTAL CAROLINA UNIVERSITY:

(I) ARTICLE 3, CHAPTER 136, TITLE 59 - REVENUE BONDS;

(I) LANDER UNIVERSITY:

(I) ACT 1305 OF 1974 - STUDENT AND FACULTY HOUSING REVENUE BONDS;

(J) FRANCIS MARION UNIVERSITY:

(I) ACT 653 OF 1978 - STUDENT AND FACULTY HOUSING REVENUE BONDS;

(II) ARTICLE 3, CHAPTER 133, TITLE 59 - ATHLETIC FACILITIES REVENUE BONDS.

(2) 'PUBLIC INSTITUTION' MEANS A FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES.

SECTION 59-101-1020. ALL AUTHORITY AND DUTIES OF THE STATE BUDGET AND CONTROL BOARD WITH RESPECT TO BOND ACTS IS DEVOLVED UPON THE JOINT BOND REVENUE COMMITTEE ESTABLISHED PURSUANT TO CHAPTER 47 OF TITLE 2.

PART V

PROCUREMENT CODE REVISIONS

SECTION 10. ARTICLE 1, CHAPTER 1, TITLE 6 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 6-1-135. WHEN A COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT ACTING THROUGH THE PROCUREMENT PROCESS APPLICABLE TO IT ENTERS INTO A CONTRACT WITH A VENDOR TO ACQUIRE GOODS OR SERVICES FROM THAT VENDOR, A FOUR-YEAR OR GRADUATE LEVEL INSTITUTION OF HIGHER LEARNING NOT INCLUDING TECHNICAL COLLEGES LOCATED IN THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT, UPON THE CONSENT OF THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT, AND THE VENDOR, ALSO MAY BECOME A PARTY TO THE CONTRACT THEREBY MAKING THE GOODS OR SERVICES AVAILABLE TO THE INSTITUTION OF HIGHER LEARNING UNDER THE SAME TERMS AND CONDITIONS THEY ARE AVAILABLE TO THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT WITHOUT THE NECESSITY OF COMPLYING WITH ANY OTHER PROCUREMENT REQUIREMENTS.”

SECTION 11. SECTION 11-35-1550(2) OF THE 1976 CODE, AS LAST AMENDED BY ACT 376 OF 2006, IS FURTHER AMENDED TO READ:

“(2)COMPETITION AND PRICE REASONABLENESS.

(A) PURCHASES NOT IN EXCESS OF TWO THOUSAND FIVE HUNDRED DOLLARS. EXCEPT AS PROVIDED IN SUBITEM (D) BELOW, SMALL PURCHASES NOT EXCEEDING TWO THOUSAND FIVE HUNDRED DOLLARS MAY BE ACCOMPLISHED WITHOUT SECURING COMPETITIVE

QUOTATIONS IF THE PRICES ARE CONSIDERED REASONABLE. THE PURCHASING OFFICE MUST ANNOTATE THE PURCHASE REQUISITION: 'PRICE IS FAIR AND REASONABLE' AND SIGN. THE PURCHASES MUST BE DISTRIBUTED EQUITABLY AMONG QUALIFIED SUPPLIERS. WHEN PRACTICAL, A QUOTATION MUST BE SOLICITED FROM OTHER THAN THE PREVIOUS SUPPLIER BEFORE PLACING A REPEAT ORDER. THE ADMINISTRATIVE COST OF VERIFYING THE REASONABLENESS OF THE PRICE OF PURCHASE 'NOT IN EXCESS OF' MAY MORE THAN OFFSET POTENTIAL SAVINGS IN DETECTING INSTANCES OF OVERPRICING. ACTION TO VERIFY THE REASONABLENESS OF THE PRICE NEED BE TAKEN ONLY WHEN THE PROCUREMENT OFFICER OF THE GOVERNMENTAL BODY SUSPECTS THAT THE PRICE MAY NOT BE REASONABLE, COMPARISON TO PREVIOUS PRICE PAID, OR PERSONAL KNOWLEDGE OF THE ITEM INVOLVED.

(B) PURCHASES OVER TWO THOUSAND FIVE HUNDRED DOLLARS TO TEN THOUSAND DOLLARS. EXCEPT AS PROVIDED IN SUBITEM (D) BELOW, SOLICITATION OF WRITTEN QUOTES FROM A MINIMUM OF THREE QUALIFIED SOURCES OF SUPPLY MUST BE MADE AND DOCUMENTATION OF THE QUOTES ATTACHED TO THE PURCHASE REQUISITION FOR A SMALL PURCHASE OVER TWO THOUSAND FIVE HUNDRED DOLLARS BUT NOT IN EXCESS OF TEN THOUSAND DOLLARS. THE AWARD MUST BE MADE TO THE LOWEST RESPONSIVE AND RESPONSIBLE SOURCES.

(C) PURCHASES OVER TEN THOUSAND DOLLARS UP TO FIFTY THOUSAND DOLLARS. WRITTEN SOLICITATION OF WRITTEN QUOTES, BIDS, OR PROPOSALS MUST BE MADE FOR A SMALL PURCHASE OVER TEN THOUSAND DOLLARS BUT NOT IN EXCESS OF FIFTY THOUSAND DOLLARS. THE PROCUREMENT MUST BE ADVERTISED AT LEAST ONCE IN THE SOUTH CAROLINA BUSINESS OPPORTUNITIES PUBLICATION OR THROUGH A MEANS OF CENTRAL ELECTRONIC ADVERTISING AS APPROVED BY THE DESIGNATED BOARD OFFICE. A COPY OF THE WRITTEN SOLICITATION AND WRITTEN QUOTES MUST BE ATTACHED TO

THE PURCHASE REQUISITION. THE AWARD MUST BE MADE TO THE LOWEST RESPONSIVE AND RESPONSIBLE SOURCE OR, WHEN A REQUEST FOR PROPOSAL PROCESS IS USED, THE HIGHEST RANKING OFFEROR.

(D) FOR FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES, SMALL PURCHASE AMOUNTS TO WHICH THE PROVISIONS OF SUBITEM (A) ABOVE SHALL APPLY ARE THOSE PURCHASES NOT EXCEEDING TEN THOUSAND DOLLARS, AND FOR THESE PURCHASES SUBITEM (B) ABOVE SHALL NOT APPLY. IN ADDITION, PURCHASING CARDS OF THE INSTITUTION FOR THESE PURCHASES ALSO MAY BE USED BY OFFICIALS OR EMPLOYEES OF THE INSTITUTION AS THE GOVERNING BOARD THEREOF APPROVES."

SECTION 12. SECTION 11-35-3310 OF THE 1976 CODE, AS LAST AMENDED BY ACT 174 OF 2008, IS FURTHER AMENDED TO READ:

“SECTION 11-35-3310. (1) GENERAL APPLICABILITY. INDEFINITE DELIVERY CONTRACTS MAY BE AWARDED ON AN AS-NEEDED BASIS FOR CONSTRUCTION SERVICES PURSUANT TO THE PROCEDURES IN SECTION 11-35-3015(2)(B) AND FOR ARCHITECTURAL-ENGINEERING AND LAND SURVEYING SERVICES PURSUANT TO SECTION 11-35-3220.

(A) CONSTRUCTION SERVICES. WHEN CONSTRUCTION SERVICES CONTRACTS ARE AWARDED, EACH CONTRACT SHALL BE LIMITED TO A TOTAL EXPENDITURE OF SEVEN HUNDRED FIFTY THOUSAND DOLLARS FOR A TWO-YEAR PERIOD WITH INDIVIDUAL PROJECT EXPENDITURES NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS; PROVIDED, THAT THESE LIMITS FOR FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING NOT INCLUDING TECHNICAL COLLEGES IN THIS ITEM SHALL BE ONE MILLION DOLLARS FOR TOTAL EXPENDITURES AND TWO HUNDRED

FIFTY THOUSAND DOLLARS FOR INDIVIDUAL EXPENDITURES WITHIN THE TIME PERIODS SPECIFIED.

(B) ARCHITECTURAL-ENGINEERING AND LAND SURVEYING SERVICES. WHEN ARCHITECTURAL-ENGINEERING AND LAND SURVEYING SERVICES CONTRACTS ARE AWARDED, EACH CONTRACT SHALL BE LIMITED TO A TOTAL EXPENDITURE OF THREE HUNDRED THOUSAND DOLLARS FOR A TWO-YEAR PERIOD WITH INDIVIDUAL PROJECT EXPENDITURES NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS; PROVIDED, THAT THESE LIMITS FOR FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING NOT INCLUDING TECHNICAL COLLEGES IN THIS ITEM SHALL BE FIVE HUNDRED THOUSAND DOLLARS FOR TOTAL EXPENDITURES AND TWO HUNDRED THOUSAND DOLLARS FOR INDIVIDUAL EXPENDITURES WITHIN THE TIME PERIODS SPECIFIED.

(2) SMALL INDEFINITE DELIVERY CONTRACTS. SMALL INDEFINITE DELIVERY CONTRACTS FOR ARCHITECTURAL-ENGINEERING AND LAND SURVEYING SERVICES MAY BE PROCURED AS PROVIDED IN SECTION 11-35-3230. A CONTRACT ESTABLISHED UNDER THIS SECTION SHALL BE SUBJECT TO SECTION 11-35-3230, AND ANY REGULATIONS PROMULGATED THEREUNDER EXCEPT THAT THE INDIVIDUAL AND TOTAL CONTRACT LIMITS SHALL BE FIFTY AND ONE HUNDRED FIFTY THOUSAND DOLLARS RESPECTIVELY FOR FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING NOT INCLUDING TECHNICAL COLLEGES.

SECTION 13. SECTION 11-35-4810 OF THE 1976 CODE IS AMENDED BY ADDING AT THE END:

“SECTION 11-35-4810. ANY PUBLIC PROCUREMENT UNIT MAY PARTICIPATE IN, SPONSOR, CONDUCT, OR ADMINISTER A COOPERATIVE PURCHASING AGREEMENT FOR THE PROCUREMENT OF ANY SUPPLIES, SERVICES, OR CONSTRUCTION WITH ONE OR MORE PUBLIC

PROCUREMENT UNITS OR EXTERNAL PROCUREMENT ACTIVITIES IN ACCORDANCE WITH AN AGREEMENT ENTERED INTO BETWEEN THE PARTICIPANTS. SUCH COOPERATIVE PURCHASING MAY INCLUDE, BUT IS NOT LIMITED TO, JOINT OR MULTI-PARTY CONTRACTS BETWEEN PUBLIC PROCUREMENT UNITS AND OPEN-ENDED STATE PUBLIC PROCUREMENT UNIT CONTRACTS WHICH SHALL BE MADE AVAILABLE TO LOCAL PUBLIC PROCUREMENT UNITS, EXCEPT AS PROVIDED IN SECTION 11-35-4820 OR EXCEPT AS MAY OTHERWISE BE LIMITED BY THE BOARD THROUGH REGULATIONS.

HOWEVER, THIRTY DAYS NOTICE OF A PROPOSED MULTI-STATE SOLICITATION SHALL BE PROVIDED THROUGH CENTRAL ADVERTISING AND SUCH CONTRACTS MAY BE ONLY AWARDED TO MANUFACTURERS WHO WILL BE DISTRIBUTING THE PRODUCTS TO SOUTH CAROLINA GOVERNMENTAL BODIES THROUGH SOUTH CAROLINA VENDORS; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS PARAGRAPH DO NOT APPLY TO FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE NOT INCLUDING TECHNICAL COLLEGES."

PART VI

MISCELLANEOUS PROVISIONS

SECTION 14. SECTION 1-7-170 OF THE 1976 CODE, AS ADDED BY ACT 353 OF 2008, IS AMENDED TO READ:

"SECTION 1-7-170. A DEPARTMENT OR AGENCY OF STATE GOVERNMENT MAY NOT ENGAGE ON A FEE BASIS AN ATTORNEY AT LAW EXCEPT UPON THE WRITTEN APPROVAL OF THE ATTORNEY GENERAL AND UPON A FEE AS MUST BE APPROVED BY HIM. THIS SECTION DOES NOT APPLY TO THE EMPLOYMENT OF ATTORNEYS IN SPECIAL CASES IN INFERIOR COURTS WHEN THE FEE TO BE PAID DOES NOT EXCEED TWO

HUNDRED FIFTY DOLLARS OR EXCEPTIONS APPROVED BY THE STATE BUDGET AND CONTROL BOARD. THIS SECTION DOES NOT APPLY TO AN ATTORNEY HIRED BY THE GENERAL ASSEMBLY OR THE JUDICIAL DEPARTMENT.

(B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A), A FOUR-YEAR AND GRADUATE PUBLIC INSTITUTION OF HIGHER LEARNING NOT INCLUDING TECHNICAL COLLEGES WHEN IT DETERMINES TO EMPLOY OUTSIDE COUNSEL ON A PARTICULAR MATTER, FOR A SERIES OF SIMILAR MATTERS, OR ON A RETAINER BASIS SHALL SUBMIT THE NAMES OF THREE QUALIFIED LAW FIRMS CONSISTING OF A SINGLE PRACTITIONER OR A GROUP OF PRACTITIONERS FROM WHICH THE ATTORNEY GENERAL SHALL APPROVE ONE OR MORE WHICH THE INSTITUTION IS THEN AUTHORIZED TO EMPLOY OR RETAIN. APPROVAL BY THE ATTORNEY GENERAL OF THESE LAW FIRMS ALSO AUTHORIZES THE INSTITUTION TO PAY LEGAL FEES TO THAT FIRM AT ITS USUAL AND CUSTOMARY RATES FOR ENGAGING IN THAT TYPE OF WORK.”

SECTION 15. ARTICLE 1, CHAPTER 101, TITLE 59 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 59-101-55. (A) BEGINNING WITH THE 2009-2010 ACADEMIC YEAR, FOUR-YEAR AND GRADUATE LEVEL STATE-SUPPORTED INSTITUTIONS OF HIGHER LEARNING NOT INCLUDING TECHNICAL COLLEGES MAY GRANT TUITION WAIVERS AND SCHOLARSHIPS DERIVED FROM STATE OR PUBLIC FUNDS TO IN-STATE AND OUT-OF-STATE STUDENTS INCLUDING ENTERING FRESHMEN AND TO FACULTY AND STAFF WITHOUT LIMITATION.

(B) STATE-SUPPORTED INSTITUTIONS OF HIGHER LEARNING TO WHICH SUBSECTION (A) APPLIES SHALL ANNUALLY REPORT TO THE COMMISSION ON HIGHER EDUCATION THE AMOUNT OF SUCH TUITION WAIVERS AND SCHOLARSHIPS GRANTED DURING THAT CALENDAR YEAR BY CATEGORY OF STUDENTS INCLUDING IN-STATE AND OUT-OF-STATE

AND SUCH OTHER INFORMATION AS THE COMMISSION MAY REQUIRE IN REGARD TO THESE TUITION WAIVERS AND SCHOLARSHIPS.

(C) THE PROVISIONS OF SUBSECTION (A) MAY NOT BE CHANGED OR ALTERED IN ANY WAY INCLUDING A PROVISIO INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS ACT EXCEPT BY A TWO-THIRDS VOTE OF THE MEMBERSHIP OF EACH HOUSE.”

PART VII

SEVERABILITY AND TIME EFFECTIVE

SECTION 16. IF ANY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, OR WORD OF THIS ACT IS FOR ANY REASON HELD TO BE UNCONSTITUTIONAL OR INVALID, SUCH HOLDING SHALL NOT AFFECT THE CONSTITUTIONALITY OR VALIDITY OF THE REMAINING PORTIONS OF THIS ACT, THE GENERAL ASSEMBLY HEREBY DECLARING THAT IT WOULD HAVE PASSED THIS ACT, AND EACH AND EVERY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, AND WORD THEREOF, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER SECTIONS, SUBSECTIONS, PARAGRAPHS, SUBPARAGRAPHS, SENTENCES, CLAUSES, PHRASES, OR WORDS HEREOF MAY BE DECLARED TO BE UNCONSTITUTIONAL, INVALID, OR OTHERWISE INEFFECTIVE.

SECTION 17. UNLESS OTHERWISE PROVIDED, THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO READ:

/TO ENACT THE SOUTH CAROLINA HIGHER EDUCATION ADMINISTRATIVE EFFICIENCY AND REGULATORY REFORM

ACT OF 2009, INCLUDING PROVISIONS TO AMEND CHAPTER 101 OF TITLE 59, RELATING TO HIGHER EDUCATION, BY ADDING ARTICLE 5 SO AS TO FURTHER PROVIDE FOR HUMAN RESOURCES POLICIES, PROCEDURES, AND REQUIREMENTS FOR PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE EXCEPT FOR TECHNICAL COLLEGES; TO AMEND SECTION 8-11-260, AS AMENDED, RELATING TO STATE PERSONNEL ADMINISTRATIVE REQUIREMENTS, SO AS TO EXEMPT EMPLOYEES OF THESE INSTITUTIONS; BY ADDING SECTION 2-47-53 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS FOR THE STATE'S INSTITUTIONS OF HIGHER LEARNING, EXCLUDING TECHNICAL COLLEGES, THROUGH APPROVAL BY THE JOINT BOND REVIEW COMMITTEE AND TO REDEFINE 'PERMANENT IMPROVEMENT PROJECT' FOR PURPOSES OF PROPOSALS BY INSTITUTIONS OF HIGHER LEARNING IN THIS STATE; TO AMEND SECTION 1-11-65, RELATING TO APPROVAL OF REAL PROPERTY TRANSACTIONS BY THE STATE BUDGET AND CONTROL BOARD AND ACCEPTANCE OF THE TRANSFER OF TANGIBLE PERSONAL PROPERTY BY A STATE ENTITY, SO AS TO PROVIDE FOR A LAND TRANSACTION INVOLVING AN INSTITUTION OF HIGHER LEARNING; BY ADDING SECTION 2-47-54 SO AS TO PROVIDE THAT THE STATE'S INSTITUTIONS OF HIGHER LEARNING, EXCLUDING TECHNICAL COLLEGES, MAY ENTER INTO A GROUND LEASE AGREEMENT WITH A PRIVATE ENTITY FOR THE BUILDING OF ON-CAMPUS INFRASTRUCTURE AND TO EXEMPT THE TRANSACTION AND ENTITY FROM THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTIONS 2-47-30, 2-47-35, 2-47-40, AND 2-47-50 TO CONFORM THOSE PROVISIONS; BY ADDING SECTION 59-147-35 SO AS TO PROVIDE THAT THE

HIGHER EDUCATION REVENUE BOND ACT MAY BE USED TO FINANCE CERTAIN OTHER PROJECTS AND FOR CERTAIN OTHER PURPOSES; TO AMEND SECTIONS 59-147-30 AND 59-147-120, RELATING TO THE PROCEDURES FOR THE ISSUANCE OF REVENUE BONDS UNDER THE HIGHER EDUCATION REVENUE BOND ACT, SO AS TO REVISE CERTAIN OF THESE PROCEDURES INCLUDING A REQUIREMENT THAT THE JOINT BOND REVENUE COMMITTEE INSTEAD OF THE STATE BUDGET AND CONTROL BOARD MUST APPROVE THE ISSUANCE OF THESE REVENUE BONDS; BY ADDING SECTION 59-101-415 SO AS TO PROVIDE THAT A SELF-SUPPORTING ENTERPRISE OF A FOUR-YEAR OR GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING IN THIS STATE MAY KEEP THE REVENUE GENERATED FROM THE ENTERPRISE AS WELL AS THE INTEREST AND EARNINGS ON THESE REVENUES, AND TO DEFINE A SELF-SUPPORTING ENTERPRISE FOR THIS PURPOSE; TO AMEND CHAPTER 101 OF TITLE 59, RELATING TO HIGHER EDUCATION, BY ADDING ARTICLE 7 SO AS TO PROVIDE FOR CERTAIN PROVISIONS APPLICABLE TO BOND ACTS FOR INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTION 6-1-135 SO AS TO PROVIDE THAT WHEN A COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT ACTING THROUGH THE PROCUREMENT PROCESS APPLICABLE TO IT ENTERS INTO A CONTRACT WITH A VENDOR TO ACQUIRE GOODS OR SERVICES FROM THAT VENDOR, A FOUR-YEAR OR GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING LOCATED IN THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT, UPON THE CONSENT OF THE COUNTY, MUNICIPALITY OR SCHOOL DISTRICT, AND THE VENDOR, ALSO MAY BECOME A PARTY TO THE CONTRACT THEREBY MAKING THE GOODS OR SERVICES AVAILABLE TO THE

INSTITUTION OF HIGHER LEARNING UNDER THE SAME TERMS AND CONDITIONS THEY ARE AVAILABLE TO THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT WITHOUT THE NECESSITY OF COMPLYING WITH ANY OTHER PROCUREMENT REQUIREMENTS; TO AMEND SECTION 11-35-1550, AS AMENDED, RELATING TO SMALL PURCHASES UNDER THE CONSOLIDATED PROCUREMENT CODE AND BID PROCEDURES ON PROCUREMENTS UP TO FIFTY THOUSAND DOLLARS, SO AS TO INCREASE THE AMOUNT OF AUTHORIZED SMALL PURCHASES BY FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING AND TO AUTHORIZE THESE INSTITUTIONS TO USE PURCHASING CARDS FOR THESE PURCHASES IN THE AMOUNT AUTHORIZED; TO AMEND SECTION 11-35-3310, AS AMENDED, RELATING TO INDEFINITE DELIVERY CONTRACTS FOR CONSTRUCTION, ARCHITECTURAL-ENGINEERING AND LAND SURVEYING SERVICES, SO AS TO RAISE THE PERMITTED AMOUNTS OF SUCH CONTRACTS; TO AMEND SECTION 11-35-4810, RELATING TO COOPERATIVE PURCHASES OF PUBLIC ENTITIES UNDER THE CONSOLIDATED PROCUREMENT CODE, SO AS TO ESTABLISH CERTAIN EXCEPTIONS FOR FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING IN REGARD TO NOTICE AND ELIGIBLE VENDORS; TO AMEND SECTION 1-7-170, RELATING TO THE REQUIRED APPROVAL OF THE ATTORNEY GENERAL BEFORE AN AGENCY OR DEPARTMENT OF THIS STATE MAY ENGAGE AN ATTORNEY AT LAW ON A FEE BASIS AND EXCEPTIONS TO THIS REQUIREMENT, SO AS TO ESTABLISH A SPECIAL APPROVAL PROCEDURE FOR FOUR-YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING; AND BY ADDING SECTION 59-101-55 SO AS TO PROVIDE THAT

BEGINNING WITH THE 2009-2010 ACADEMIC YEAR, FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTIONS OF HIGHER LEARNING MAY GRANT TUITION WAIVERS AND SCHOLARSHIPS DERIVED FROM STATE OR PUBLIC FUNDS TO IN-STATE AND OUT-OF-STATE STUDENTS INCLUDING ENTERING FRESHMEN AND TO FACULTY AND STAFF WITHOUT LIMITATION; TO PROVIDE FOR ANNUAL REPORTING REQUIREMENTS TO THE COMMISSION OF HIGHER EDUCATION BY EACH SUCH INSTITUTION OF HIGHER LEARNING IN REGARD TO THESE TUITION WAIVERS AND SCHOLARSHIPS AND TO PROVIDE FOR A SUPER MAJORITY VOTE REQUIREMENT TO CHANGE OR ALTER THIS PROVISION. /